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Todd C. Werner

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PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON, CT 06484-8000

EXAMINER

SEVERSON, JEREMY R

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/709,289
Filing Date: April 27, 2004
Appellant(s): WERNER, TODD C.

Christopher H. Kirkman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 29 May 2008 appealing from the Office action mailed 27 August 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is substantially correct. However, the examiner has withdrawn the rejection of claims 5-9 and 12. Therefore the current status of the claims is:

Claims 1-13 are pending in this application. Claims 1-4, 10, 11 and 13 are rejected. Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 12 is allowed.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. However, the examiner has withdrawn the rejection of claims 5-9 and 12. Therefore the current grounds of rejection to be reviewed on appeal are:

A. Claims 1-4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,613,998 to DeWitt et al. ("DeWitt") in view of U.S. Patent No. 5,460,273 to Stevens et al. ("Stevens") and U.S. Patent No. 5,253,859 to Ricciardi ("Ricciardi").

B. Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over DeWitt in view of Stevens and Ricciardi and further in view of U.S. Patent No. 6,822,182 to Kechel ("Kechel").

C. Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over DeWitt in view of Stevens and Ricciardi and further in view of U.S. Patent No. 5,772,200 to Sorensen ("Sorensen").

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,613,998	DEWITT	9-2003
5,460,273	STEVENS	10-1995
5,253,859	RICCIARDI	10-1993
5,772,200	SORENSEN	6-1998
6,822,182	KECHEL	11-2004

(9) Grounds of Rejection

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner:

The rejection of claims 5, 6 and 9 under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens and Ricciardi is withdrawn.

The rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens, Ricciardi and Gafner is withdrawn.

The rejection of claim 8 under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens, Ricciardi and Sorensen is withdrawn.

The rejection of claim 12 under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens and Ricciardi is withdrawn.

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens and Ricciardi.

DeWitt discloses a machine, comprising:

an elongate conveyor system (see Fig. 1) for transporting items to a hopper (96);
a printing and drying station (80) where ink is applied to said items and dried;
an elongate discharge apparatus said elongate discharge apparatus including a plurality of longitudinally-spaced apart deflectors for diverting preselected items from a first path of travel to a second path of travel (see Fig. 1, deflectors which divert mail to hoppers 96-99);

said elongate discharge apparatus including a plurality of bins, there being as many bins as there are deflectors (*Id.*);

said elongate conveyor system and said elongate discharge apparatus being disposed in parallel relation to one another (see Fig. 1);

said printing and drying station being disposed in inter-connecting relation to said elongate conveyor system and said elongate discharge apparatus (see Fig. 1);

a first end of said printing and drying station being positioned at a discharge end of said elongate conveyor system (see Fig. 1);

Dewitt does not explicitly disclose that the stacking friction belts shown in fig. 1 are pivotally-mounted with respect to said hopper such that an item in said hopper is substantially fully engaged along its length when said pivotally-mounted friction belt is in a fully unpivoted position and such that an item in said hopper is engaged only at a leading end thereof when said pivotally-mounted friction belt is in a fully pivoted position. Ricciardi teaches such an apparatus in order to counteract the ever increasing force applied by the stack against the envelope conveying belt system. See Ricciardi, col. 3, lines 19 *et seq.* Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the stacking friction belts of Dewitt pivotally-mounted with respect to said hopper such that an item in said hopper is substantially fully engaged along its length when said pivotally-mounted friction belt is in a fully unpivoted position and such that an item in said hopper is engaged only at a leading end thereof when said pivotally-mounted friction belt is in a fully pivoted position, as taught by Ricciardi, in order to counteract the ever increasing force applied by the stack against the envelope conveying belt system.

Dewitt does not disclose:

a second end of said printing and drying station being positioned at an input end of said elongate discharge apparatus;

said elongate conveyor system, said printing and drying station, and said elongate discharge system collectively forming a square "U"-shaped configuration;

whereby an operator of said machine has unimpeded access to said elongate conveyor system, said printing and drying station, and said elongate discharge apparatus.

However, Stevens discloses a second end of said printing and drying station being positioned at an input end of said elongate discharge apparatus;

said elongate conveyor system, said printing and drying station, and said elongate discharge system collectively forming a square "U"-shaped configuration;

whereby an operator of said machine has unimpeded access to said elongate conveyor system, said printing and drying station, and said elongate discharge apparatus.

Stevens discloses the interchangeability of the of U-shape conveyor layout to the "in line" configuration (col. 8, lines 37 *et seq.*). Stevens further disclose that the U-shape is to allow access for the operator to various portion of the apparatus (*Id.*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified DeWitt to use a U-shaped layout, as disclosed by Stevens, for the purpose of allowing operator access to various portions of the machine.

In regard to claims 2-4, see col. 7, lines 29 *et seq.*; see also Fig. 1.

In regard to claim 10, said pivotally-mounted friction belt is positionable in an infinite number of pivotal positions of adjustment between said fully unpivoted and fully pivoted positions; the amount of driving force imparted to envelopes exiting said hopper being variable by adjusting the amount of pivoting of said pivotally-mounted friction belt. See fig. 1 of DeWitt as modified by Ricciardi.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens, Ricciardi and Kechel.

Re claim 11, the apparatus of Dewitt as modified by Stevens and Ricciardi does not comprise separator cards. However, Kechel discloses the use of separator cards in sorting mail for the purpose of defining different mail groups. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified DeWitt to include separator cards, as disclosed by DeWitt, for the purpose of defining different mail groups.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt in view of Stevens, Ricciardi and Sorensen.

In regard to claim 13, the apparatus of DeWitt as modified by Stevens and Ricciardi comprises everything except an air nozzle mounted downstream of said protruding rollers, between said protruding rollers and said nip; said items being envelopes having flaps; said air nozzle applying a positive air pressure to respective flaps of envelopes. Sorensen teaches the use of air nozzles to keep the envelope flaps

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closed. See Sorensen, col. 2, line 66 *et seq.* Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add an air nozzle mounted downstream of the protruding rollers in the apparatus of DeWitt as modified by Stevens and Ricciardi, as taught by Sorensen, in order to keep the envelope flaps closed.

(10) Response to Argument

A. Claims 1-4 and 10 are unpatentable over DeWitt in view of Stevens and Ricciardi

The Appellant argues that Ricciardi fails to teach or suggest a “pivotally mounted friction belt positioned with respect to said hopper such that an item in said hopper is substantially fully engaged along its length when said pivotally-mounted friction belt is in a fully unpivoted position and such that an item in said hopper is engaged only at a leading end thereof when said pivotally-mounted friction belt is in a fully pivoted position,” as recited in claim 1. Brief, p. 13. Appellant notes that “the ‘shaft 34’ of Ricciardi is biased so that it ‘forces a portion 64 of belts 26a and 26b outwardly and into contact with the last stacked envelope 50 of the stack 46.’” Brief, p. 13-14. The examiner fails to see how this shows that Ricciardi does not teach the claim element. Ricciardi discloses that as the stack pressure increases, the lever arm 52 rotates clockwise, increasing the plane of contact with the sheet. See Ricciardi, col. 6, line 55-col. 7, line 4. At a high enough stack pressure, the lever arm would rotate far enough so that an item in the hopper is substantially fully engaged along its length. Therefore, Ricciardi teaches

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a “pivotally mounted friction belt positioned with respect to said hopper such that an item in said hopper is substantially fully engaged along its length when said pivotally-mounted friction belt is in a fully unpivoted position and such that an item in said hopper is engaged only at a leading end thereof when said pivotally-mounted friction belt is in a fully pivoted position,” as recited in claim 1.

The Appellant argues that claims 2-4 and 10 depend from claim 1 and should therefore be allowable for the same reasons claim 1 is allowable. Brief, p. 21. The examiner disagrees, because as discussed above, claim 1 is allowable.

B. Claim 11 is unpatentable over DeWitt in view of Stevens, Ricciardi and Kechel

The Appellant argues that claim 11 depends from claim 1 and should therefore be allowable for the same reasons claim 1 is allowable, and Kechel does not supply the deficiencies of DeWitt, Stevens and Ricciardi. Brief, p. 20-21. The examiner disagrees, because as discussed above, claim 1 is allowable.

C. Claim 13 is unpatentable over DeWitt in view of Stevens, Ricciardi and Sorensen

The Appellant argues that “neither the generic teaching of using ‘air nozzles to keep the envelope flaps closed,’ as asserted in the Office Action, nor the specific teaching of Sorensen of using air to separate forms ... meets the requirements of M.P.E.P. § 2143.03, namely, that ‘all the claim limitations must be taught or suggested by the prior art.’” Brief, p. 20. The examiner disagrees. Sorensen teaches an air blower to keep envelope flaps closed while they are being fed. See Sorensen, col. 2, line 66-col. 3, line 2. Further, Sorensen teaches the use of nozzles to blow air. See Sorensen,

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col. 6, lines 47-53. The examiner agrees that the teaching of Sorensen of using air to separate forms would not teach or suggest an "air nozzle mounted downstream of said protruding rollers, between said protruding rollers and said nip, said items being envelopes having flaps," and "said air nozzle applying a positive air pressure to respective flaps of envelopes as respective trailing ends of said envelopes clear said protruding rollers, whereby said respective flaps are pushed into overlying relation to a main body of said envelopes so that said flaps are not rammed by the flaps of trailing items," as recited in claim 13. However, Sorensen's teaching of an air nozzle to keep the envelopes closed as they are being fed does teach such a limitation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jeremy Severson/

Examiner, Art Unit 3653

/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653

Conferees:

Gene Crawford /G.O.C/

Patrick Mackey/P. H. M./

Supervisory Patent Examiner, Art Unit 3653

Jeremy Severson /J. S./

Examiner, Art Unit 3653